

ANALYSIS OF ORIGINAL BILL

Author: Ayala Analyst: Roger Lackey Bill Number: SB 1364

Related Bills: See Legislative History Telephone: 845-3627 Introduced Date: 01-05-98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Open Meeting Act

SUMMARY

This bill would remove the intent requirement for prosecuting a misdemeanor action against a member of a state body who attends a meeting that violates the Bagley-Keene Open Meeting Act with knowledge of that fact. This bill also would make technical changes regarding who is authorized to commence an action for the purpose of stopping or preventing a violation of the Bagley-Keene Open Meeting Act. Finally, this bill would remove the authority of a court to compel the state body to tape record its closed sessions.

EFFECTIVE DATE

The bill would become effective January 1, 1999.

LEGISLATIVE HISTORY

SB 95 (Ch. 949, Stats. 1997), SB 1803 (95/96), AB 3467 (Ch. 94, Stats. 1153)

SPECIFIC FINDINGS

Current state law, among other things, requires a state body to:

- provide an agenda and specified notice of its public meetings at least 10 days in advance of the meeting;
- prior to any closed session, declare the reason for the closed session and cite the specific statutory authority for the closed session; and
- publicly report, at a subsequent public meeting, any action or roll call vote thereon to appoint, employ or dismiss a public employee at a closed session.

Also, existing law provides that the Attorney General, the district attorney or any interested party may initiate court action to stop or prevent violations of

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director Date
Gerald H. Goldberg 4/6/98

Agency Secretary Date

By: Date

the open meeting law or to determine, whether a rule or action by the state body is valid or invalid under the laws of this state or the United States. Also, the court, in its discretion, upon judgment of a violation, may order the state body to tape record its closed sessions.

This bill would make technical changes regarding who is authorized to commence an action for the purpose of stopping or preventing a violation of the Bagley-Keene Open Meeting Act.

This bill would eliminate the court's discretion to order a state body to tape record its closed sessions and the rules regarding retention and discovery procedures of these tapes.

This bill would delete existing law that requires a member to intend to deprive the public of information to which the member knows or has reason to know the public is entitled in order to be guilty of a misdemeanor. Instead, this bill would provide that it is a misdemeanor for a member of a state body to attend a meeting of that body with knowledge that the meeting is in violation of the act.

Implementation Considerations

The FTB operates in compliance with the provisions of the Bagley-Keene Open Meeting Act and has received no issues of complaint regarding FTB meetings or members. As a result, the changes to the Open Meeting Act are not anticipated to impact the department.

FISCAL IMPACT

Departmental Costs

No departmental costs are associated with this bill.

Tax Revenue Estimate

This bill would not impact the state's income tax revenue.

BOARD POSITION

Pending.